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## CONTROLLING THE NORTHWARD FLOW OF MEXICAN ANTIQUITIES

JAMES A. R. NAFZIGER\*

Among the most serious perils of Mexican proximity to the United States is a continuing hemorrhage of Mexico's extraordinary rich cultural patrimony. It is no exaggeration to view that country as a vast treasure trove of pre-Columbian and later art and archaeological material plundered by an unlikely network of sandaled chicle gatherers, *huaqueros*, *esteleros*, and foreign collectors, galleries and museums. This threat to the Mexican patrimony is nothing new. One need only view the feathered headdress of the Emperor Moctezuma in Vienna and countless other examples from foreign showcases of the "finders, keepers" principle in order to appreciate the long tradition of brigandage against Mexican cultural property. But the problem became a crisis in the mid-1960's. Spiraling inflation in the international art market shifted aggressive acquisition from the very limited and essentially frozen supply of European objets d'art to less familiar material including Olmec heads, Toltec figurines, Mayan stelae, and other precious fixtures of Mexican cultural identity.<sup>1</sup>

The murder of man's history in Mexico runs rampant. Responsible U.S. media have alerted their readers with recent articles under such headlines as "Ripping Off the Past",<sup>2</sup> "Confessions of a Tomb Robber",<sup>3</sup> "International Trafficking in Antiquities",<sup>4</sup> "Ethics and Antiquities, An Issue for Museums",<sup>5</sup> "Ruthless Pillage of Priceless Artifacts",<sup>6</sup> "Mayan Relic is Recovered",<sup>7</sup> and "Good Art, Tough Laws: The 'Hot Pot' Controversy".<sup>8</sup>

This article briefly examines the problem faced by Mexico and then summarizes and evaluates several legal responses to the problem, as it relates to transactions between Mexico and the United States.

The massive plundering of Mexican archaeological sites, of which there are thousands, has been going on for about a dozen years.<sup>9</sup> Although the "Maya Crisis"<sup>10</sup> may not be as devastating as the energy or food crisis,

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it is difficult for U.S. citizens fully to appreciate how fundamental the preservation and proper use of its cultural property is to Mexico in terms of its national identity, its trusteeship of human discovery and, yes, the tourist dollar. In the words of Dr. Ignacio Bernal, Director of the National Museum of Anthropology (Mexico), "[i]t is culture that has been the mainspring of Mexico's survival, even in front of such a powerful neighbor."<sup>11</sup> Perhaps the despoliation of the North American environment is currently of a comparable level of concern.

Of particular significance are artifacts from the Mayan Golden Age of 300-900 A.D., primarily from ceremonial centers consisting of pyramids, palaces, archways and tall limestone shafts known as stelae, which are covered with carved hieroglyphics, sculptured priests and rulers, animal gargoyles and other pictorial representations that not only please the eye but aid archaeological sleuths to decipher the rich but still cryptic Mayan language. It is not just that these items are illegally removed into the clutches of collectors by large-scale, well-financed operators. That is bad enough. It is also that, when they are removed, the historical context is forever gone, they are often butchered for easier transport and larger volume of sales, and their pictographic message is thereby garbled, if not lost altogether. The Mayans organized their ceremonial centers according to strict astronomical, mathematical and religious principles. When, therefore, stelae placed in symbolically strategic locations are removed, the whole pattern of organization is thereby disrupted. As one writer put it, the objects become "forevermore beautiful but dumb."<sup>12</sup>

Many objects lose even their beauty:

Stelae are much too heavy to remove intact from a site. They are usually found in remote jungle areas that must be reached by mule or dugout. For this reason they must be cut or broken up. The robbers, with varying degrees of skill, use power saws, crowbars, chisels, acid, or, more primitively, heat in order to crack the stone into pieces. If a stela is in good condition, the aim is to saw off the sculptured face of the stone. This common method, even at its most efficient, sacrifices the inscriptions, which are found on the sides of the stela and sometimes on the back as well. When this method does not work, a frequent occurrence, the face of the stela is left a pile of chips on the ground — with any salable bits removed.<sup>13</sup>

It should be emphasized that it is no longer a matter of the occasional collector kicking up a sherd. It is more frequently a matter of a limited

number of unscrupulous dealers and other interests employing armed gangs of *huaqueros* in the all-but-impenetrable jungles of the Yucatan peninsula. The property is largely unprotected because of the prohibitive cost of an adequate cordon of guards.<sup>14</sup> Bribery of official guards, where there are any, is pervasive. Even archaeologists get in on the act.<sup>15</sup> A salient example of this process of brigandage was an enormous stucco panel which was torn from the side of a pyramid in Quintana Roo, somehow transported out of the jungle, and offered a few years back to the Metropolitan Museum of Art in New York for \$500,000. Fortunately, the Met rejected the offer and notified the authorities and the panel was returned, severely damaged, into the custody of the Mexican government.<sup>16</sup>

Smuggling of Mexican artifacts frequently involves the use of helicopters and other light aircraft, road construction, truck transport, jerry-built docks, shrimp boats and, for smaller objects, transboundary automobile transport. Sometimes contraband property is transported out of Mexico via neighboring Guatemala or Belize. Even national monuments provide no sanctity in Meso-America, as the dismemberment of the Piedras Negras Monument in Guatemala demonstrates. It is reported that what is left of particularly beautiful stelae from that site may now be seen in a well-known art museum and an art institute in the United States.<sup>17</sup>

### AVAILABLE LEGAL CONTROLS

What are the available legal controls against such plunder and mutilation of a priceless heritage?

#### 1. *Mexican Law*

Mexican law going back to 1934 had established national ownership of all immovable archaeological material in the public domain, and precluded the export of all works of art or antiquities without an export license.<sup>18</sup> The Mexican government has the authority to expropriate property "for reasons of public utility" by paying compensation.<sup>19</sup> Artifacts belong to the nation even when they are "unknown" or lost.<sup>20</sup> The philosophy underlying the Mexican law of antiquities seems to be that

. . . since archaeological ruins and monuments are outside the field of business and cannot be the subject of appropriation by private individuals, it has not been possible for them to go beyond the control of the Nation, which therefore has the au-

thority to legislate on them; and ownership, when the Federal Government is involved, implies sovereignty.<sup>21</sup>

Despite a sorry, quite often dysfunctional, experience with these laws,<sup>22</sup> in addition to refining administrative procedures and creating new archaeological zones, a 1972 law extended national ownership of the cultural patrimony to private collections and forbade absolutely the export of pre-Columbian items.<sup>23</sup> The 1972 legislation was adopted only after a "bitter constitutional debate" in which the propriety of extending public control over private property was challenged.

Even the tiniest objects are covered by the law<sup>24</sup> and tough criminal sanctions are provided for its violation.<sup>25</sup> No provision is made, as in the law of some other countries, for preemption of purchase by state authority or other alternative markets within Mexico. The only exception to the law is provided for presidentially approved gifts and exchanges to foreign scientific institutions and foreign governments.<sup>26</sup>

The law's effect is to foreclose the legitimate export of Mexican cultural property and to encourage a black market. "Mexico has taken a giant step backward, re-entrenching regulatory methods which have long been discredited."<sup>27</sup>

## 2. *U.S. Law, Including Judicial Action Under a U.S.-Mexico Treaty*

Because U.S. collecting has traditionally been laissez-faire, if not *sub rosa*; because the U.S. has traditionally encouraged the duty-free importation of art from abroad; because of generous federal income tax deductions (up to 30% of gross income and at current market value at the time of donation) for contributions to certain institutions; and because of the *bona fide* purchaser rule of our common law; the United States is a refuge for contraband artifacts.

Nevertheless, as early as a 1967 meeting between Presidents Johnson and Diaz Ordaz and a formal Mexican request for action in 1969,<sup>28</sup> the United States, conscious of its substantial diplomatic and commercial stakes in Mexico, has appeared willing to respond to Mexican expressions of urgency in dealing with the problem. Today, the "Spirit of Tlatelolco" encourages continuing responsiveness by the United States.

A tradition of border cooperation between the two countries is strengthened by U.S. sensitivity to charges of "cultural imperialism" as well as to its appreciation of the trade-off value of its commitment to

assisting Mexico in return for continuing efforts by the latter to curb the inward flow of stolen automobiles and the outward flow of marijuana and hard drugs.

There are four available legal devices for the recovery of illegally imported Mexican property: a lawsuit under federal stolen property laws; a new federal statute establishing customs controls over specified pre-Columbian imports; civil actions by a foreign government; and judicial action by the Office of the United States Attorney General, under a bilateral U.S.-Mexican treaty.

The federal stolen property law was successfully used, without precedent, in a federal action against a California art dealer, Clive Hollinshead, who was accused of conspiring to steal *Machaquila Stela 2*, a Mayan stone carving from Guatemala, and offering it for sale in this country for \$300,000. Mr. Hollinshead's conviction after a trial by jury, which was affirmed on appeal,<sup>29</sup> established that a dealer is guilty of a federal crime if he conspires in the interstate or foreign transportation of art known to have been pillaged from a country which decrees that its archaeological treasures are public property, as was proven at the Hollinshead trial by the introduction of Guatemalan law. The problem of scienter in the case was overcome by a finding that the stela which had been stolen was so well-known as to preclude the possibility that Mr. Hollinshead did not know of its provenance.

In evaluating the efficacy of criminal prosecutions on the basis of the Hollinshead conviction, one must be cautious. That case was really an unusually easy one, insofar as it involved a flagrant conspiracy to steal well-documented cultural property. Subsequent cases are apt to be more difficult to prosecute, as well as more expensive and generally burdensome for law enforcement authorities.

A federal statute enacted by Congress in 1972<sup>30</sup> establishes new customs controls over the importation of national art treasures. Under this new law, no listed pre-Columbian stone carvings and wall art from the Americas may enter the United States, unless accompanied by an export certificate from the country of origin.<sup>31</sup> The list of protected items is prepared by the Secretary of the Treasury, after consultation with the Secretary of State.<sup>32</sup> Any object brought here in violation of the law is to be seized by federal authorities and returned, without compensation to the owner or purchaser.<sup>33</sup>

So far, the new custom controls have proven to be very effective, largely because the United States Customs Service has taken their imple-

mentation seriously, and is now deeply committed to a program of self-education, investigation, surveillance, notification of other authorities, and confiscation.<sup>34</sup> The efforts of the Service already have been rewarded by such impressive seizures as an Olmec stone jaguar, a fragment of the Mayan codex, and a shipment of Remojadas statuettes, the latter despite misdescription, false documentation and channeling through the commonly used entrepot of Switzerland.<sup>35</sup> The Customs Service, moreover, has stood ready to assist in the recovery of objects where judicial action is taken under the treaty with Mexico. The Mexican Government has praised the Customs Service for its efforts.<sup>36</sup>

It is interesting to note that, although the customs legislation is expressly limited to major, typically monumental works, or portions or fragments of such works, its application (or a spin-off of its application) has been extended as a matter of customs practice to the confiscation of smaller objects that are not already covered as portions or fragments of larger works.<sup>37</sup> Nevertheless, smaller objects — jade and ceramic figurines, gold ornaments and the like — are not embraced by the legislation and are, in any event, difficult for customs inspectors to discover.

A civil action is of course available to foreign governments outside the scope of the special legal arrangements discussed in this article. Indeed, Guatemala had brought a lawsuit against Clive Hollinshead prior to the institution of the federal criminal prosecution against him. The trouble with relying upon such lawsuits is of course that they are incremental, painfully slow, expensive, and often awkward and risky to the plaintiff foreign government in its submission to the courts and laws of another sovereign.

In the Mexican context, a judicial action is available under a 1970 U.S.-Mexican treaty<sup>38</sup> which is designed to protect designated cultural material from illegal export and to promote joint archaeological work and study and exchange of antiquities.<sup>39</sup> It provides legal mechanics for recovery by Mexico of stolen national art treasures of "outstanding importance," by requiring the U.S. Attorney General's office to bring a civil action in a U.S. District Court for the recovery and return to Mexico of all property illegally imported into this country.<sup>40</sup> The application of the treaty is limited to pre-Columbian objects, religious art and artifacts of the colonial period, and documents from official archives up to 1920 that are, it should again be noted, "of outstanding importance" to the national patrimony. The treaty provides for definition of the term "outstanding importance," either by agreement between the two governments or by a

panel of qualified experts, as mutually formed by the two governments.<sup>41</sup> The treaty, the first of its kind to be signed by the U.S. with any country, has had only limited application since its ratification by the Senate in 1972.

### 3. *UNESCO Convention*

Finally, mention should be made of the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. This Convention,<sup>42</sup> which is not self-executing, is in force in Mexico but not yet in this country where, though ratified, it was still awaiting Congressional approval of implementing legislation as of the time this article was written. It creates multilateral control of the movement of cultural property, while fostering legitimate exchange and international cooperation in the inventory of cultural property.<sup>43</sup> *Inter alia*, the Convention establishes a system of export certification;<sup>44</sup> an emergency measure permitting signatories to call upon each other's assistance to control the flow of jeopardized property;<sup>45</sup> obligates parties to the Convention to return property stolen from museums, monuments or other institutions;<sup>46</sup> and a rather mild requirement for signatories "consistent with national legislation" to prevent museums and similar institutions from acquiring illegally imported property.<sup>47</sup> Contraband items are recoverable on demand by the country of origin, so long as it pays just compensation to innocent purchasers.

## FURTHER LEGAL CONTROLS

What More of a Legal Nature Can be Done to Prevent the Outward Flow of Mexican Antiquities?

Legal solutions offer no panacea. Above all, international funding is desperately needed. Unquestionably, the "Maya Crisis" would be greatly eased by more money for more and better paid guards at antiquity sites, for better fencing and electronic devices, and for further museum construction and exhibitions.<sup>48</sup> But without such funding, legal cooperation and control offers the greatest hope.

1. The U.S.-Mexico Treaty provides that the parties will facilitate the circulation and exhibition of their cultural property in order to enhance mutual understanding and appreciation of the artistic and cultural heritage of both countries. Clearly, the spiraling market for artifacts and objects



d'art can be markedly wound down by encouraging short- and long-term loans and exchanges.<sup>49</sup> Moreover, private agreements, such as that between the Metropolitan Museum of Art in New York and the National Museum of Anthropology and History in Mexico City offer hope. That arrangement calls for loans of Mexican pre-Columbian artifacts to the Metropolitan, in return for the Metropolitan's loan of Egyptian and Cypriot materials to Mexico.<sup>50</sup>

2. Further encouragement of non-governmental, primarily inter-museum, controls may assist, in view of the very important role in the importation process played by U.S. museums, with their traditionally eclectic, even encyclopedic, acquisition policies and practices.<sup>51</sup> U.S. museums, under the fear of alienating a source of future gifts, too often grab whatever they are offered.<sup>52</sup> "Museums must act to police themselves."<sup>53</sup> Inter-museum agreements and other non-governmental controls are capable of responding significantly to domestic and foreign pressures for adhering to emerging norms of acquisition. There is a need for stronger mutual acquisition policies, as that which the American Association of Museums, for example, now reflects. As one possible response by museums, a moratorium on all further acquisitions has been proposed, but even that may not be necessary if other joint measures are taken. For example, Rule 20 of the ethical rules of the International Council of Museums (ICOM), the umbrella organization of museums throughout the world, requires that

Museums of any country which bind themselves to follow the ethical rules and the practical proposals formulated in paragraphs 1-19 of this document, will agree to offer each other preferential treatment in all professional activities, compatible with the existing laws.<sup>54</sup>

The development of ethical codes among museums to govern acquisitions was subsumed under a compromise that led to the adoption of the UNESCO Convention.<sup>55</sup> Moreover, the U.S. is required under the last clause of Article 7(a) of the Convention to inform other States parties to the Convention of any "offer of cultural property illegally removed."

Non-governmental assistance might also take the form of continuing cooperation with INTERPOL and encouragement of better data storage and transmission concerning stolen and forged art.<sup>56</sup>

3. In helping to implement both inter-governmental and non-governmental controls, unilateral acquisitions policies of museums which respond to the problem may be helpful.<sup>57</sup> In respect to pre-Columbian material, the

Arizona State Museum took the lead in its 1972 Statement of Policy and Practice Regarding Acquisitions and use of Collections.<sup>58</sup>

4. Continuing review of the Mexican law may lead to greater flexibility in its terms and application. The present law, which forbids the exportation of pre-Columbian art and archaeological objects, is commonly regarded as Draconian and probably serves more to stimulate a flourishing black-market than to protect indigenous art treasures. In the words of Dr. Ignacio Bernal,

The main objective of treaties or other international agreements is not fundamentally to stop commerce in antiquities, but by impeding the activities of the looter, the pirate, to prevent illegal digging of sites and therefore the loss — without possible remedy — of the information available to those sites. So the prevention of international commerce in archaeological objects is a means for reaching the essential aim.<sup>59</sup>

A more flexible Mexican regime of control might include a restoration of selective export certification; provisions such as those in effect in Japan and Great Britain for a public or governmental purchase option, at the declared valuation at sale of at least minor duplicate objects intended for export; a tariff on the export of certain classes of more minor cultural property; a stiff sales tax on all foreign sales, or a general sales tax with forgiveness or rebate in the case of a domestic sale. In return, the U.S. might seek to eliminate long-term capital-gains tax treatment of cultural property; to restrict tax exemption for charitable contributions of objets d'art to those of unimpeachable provenance; to revoke the tax-exempt status of museums that accept illegally exported or otherwise obtained items; and to provide for indemnification of important museum loans and exchanges at a time when insurance rates to loaned material are spiraling upward.

5. Even under present Mexican law, gifts and exchanges by special presidential agreement can be encouraged, with all of the above noted legal protections.

6. Maintenance of strict controls can be exercised with greater care by the U.S. over the use of diplomatic pouches dispatched from Mexico, which have been used to smuggle art and archaeological material out of Mexico in violation of Mexican law.<sup>60</sup>

7. The Organization of American States, through the Inter-American Council for Education, Science, and Culture (C.I.E.C.C.), is undertaking

the drafting of a treaty, similar to the UNESCO Convention, to protect the cultural heritage of member states. Although a draft of the treaty has been criticized for its overly rigid guidelines, in time a new, regional control may emerge.<sup>61</sup>

8. The United States might seek to establish legally binding cooperative arrangements with other art-importing countries. Otherwise, there may be simply a diversion of the market elsewhere, as to Japan and Western Europe. Indeed, there is already disturbing evidence of a diversion of Mayan material from the U.S. to the burgeoning European market.<sup>62</sup>

9. Cooperation by both the U.S. and Mexico with the Central American Development Bank in its regional legal initiatives to protect indigenous archaeological material from natural deterioration and "*la acción depredadora*",<sup>63</sup> might encourage Central American entrepôts and reexporters of Mexican cultural property en route clandestinely to the United States to take measures to control such reexport from their ports.

10. Finally, mention should be made of a December 18, 1973 Resolution of the General Assembly of the United Nations, by a vote of 113 in favor (including Mexico) to none against, with 17 abstentions (including the U.S.). The resolution, which is entitled "Restitution of works of art of countries victim of expropriation," *inter alia* "[a]ffirms that the prompt restitution to a country of its objets d'art, monuments, museum pieces, manuscripts and documents by another country, without charge, is calculated to strengthen international cooperation, inasmuch as it constitutes just reparation for damage done."<sup>64</sup>

Above all, a viable regime of control to protect the extraordinarily important Mexican cultural heritage would do well to reflect the spirit of Tlatelolco and to remember the simple but incisive words of the great Mexican statesman, Benito Juárez: "Peace is respect for the rights of others."

## NOTES

<sup>1</sup>G. Keen, *The Sale of Works of Art 17* (1971); Carley, *Archaeological Objects Smuggled at Brisk Rates as Their Prices Soar*, *Wall St. J.*, June 2, 1970, at 25, col. 1; Bloomfield, *Record Prices*, *Wash. Post*, November 11, 1973, L 1, col. 1.

<sup>2</sup>Williams, *Sat. Rev. Sci.*, September 30, 1972, at 44.

<sup>3</sup>Dunphy, *N.Y. Times*, June 4, 1972, at 20, col. 3.

<sup>4</sup>Rogers and Cohen, *Wash. Post.*, March 31, 1973, at A14, col. 3.

- <sup>5</sup>Canaday, N.Y. Times, February 27, 1973, at 29, col. 1.
- <sup>6</sup>Carter, Wash. Post, April 4, 1970, at B1, col. 1.
- <sup>7</sup>Trimble, Arkansas Gazette, January 29, 1972.
- <sup>8</sup>Alsop, Wash. Post, February 28, 1973, at 25, col. 3.
- <sup>9</sup>Graham, *Pots and Robbers* (Book Review), Nat. Hist. Mag., December, 1973, at 94.
- <sup>10</sup>K. Meyer, *The Maya Crisis: A Report on the Pillaging of Maya Sites in Mexico and Guatemala, and a Proposal for a Rescue Fund* (1972). Another narrative and reference source of pertinence, excellent in both respects, is K. Meyer, *The Plundered Past* (1973).
- <sup>11</sup>Bernal, untitled paper, 68 Am. J. Int'l L. Proceedings (1974) (hereinafter cited as *Bernal*).
- <sup>12</sup>Coggins, *The Maya Scandal: How Thieves Strip Sites of Past Cultures*, 1 Smithsonian 8, at 10 (No. 7, 1970).
- <sup>13</sup>Coggins, *Archeology and the Art Market*, 175 Science 263 (1972).
- <sup>14</sup>Reinhold, *Scholars Racing Pillagers and Time in Quest to Solve Mysteries of the Maya*, N.Y. Times, March 26, 1973, at 34, col. 1; Glueck, *Customs Cracks Down on Looted Art*, N.Y. Times, July 10, 1974.
- <sup>15</sup>In 1972, for example, a Mexican archaeologist was arrested for illegally selling antiquities to dealers. K. Meyer, *The Maya Crisis*, *supra* note 10, at 23, 42.
- <sup>16</sup>Coggins, *supra* note 12, at 16.
- <sup>17</sup>*Dealers Say Removal of Art Preserves It*, N.Y. Times, March 27, 1973, at 28. Coggins, *supra* note 12, at 11.
- <sup>18</sup>Art. 27, Political Constitution of the Republic of Mexico; Law of January 19, 1934, Law on the Protection and Conservation of Monuments, Typical Towns and Places of National Beauty (1934), *Diario Oficial* (Mexico) (hereinafter cited as "1934 Law"); Law of Dec. 16, 1970, Ley Federal Del Patrimonio Cultural de la Nación (1970) 303 *Diario Oficial* [D.O.] 8, 12 (Mexico); Circular Letter No. 301-I-87608, Republic of Mexico Bureau of Customs (November 8, 1960).
- <sup>19</sup>Art. 27, Political Constitution of the Republic of Mexico; Art. 4, 1934 Law, *supra* note 18.
- <sup>20</sup>See transcript of Decision in Dispute between Government of the Republic of Mexico and the State of Oaxaca, Caused by Enactment by Oaxaca of the Law of February 13, 1932 (available in Legal Section, U.S. Library of Congress, Washington, D.C.).
- <sup>21</sup>*Id.*
- <sup>22</sup>Alva González, *New Legal Tools to Curb the Illicit Traffic in Pre-Columbian Antiquities*, 12 Colum.J.Trans.L. 315 (1973) (hereinafter cited as *New Legal Tools*).
- <sup>23</sup>Art. 27, *Ley Federal Sobre Monumentos y Zonas Arqueológicas, Artísticas, y Históricas*, (1972) 312 D.O. 16 (Mexico).
- <sup>24</sup>*Id.*
- <sup>25</sup>*Id.*, Art. 47, 53.
- <sup>26</sup>*Id.*, Art. 16.
- <sup>27</sup>Rogers and Cohen, *Art Pillage—International Solutions*, in L. and M. Du Boff, *Law and the Visual Arts*, 281, at 287 (1974).

<sup>28</sup>*New Legal Tools*, *supra* note 22, at 26.

<sup>29</sup>*U.S. v. Hollinshead*, 495 F2d 1154 (9th Cir. 1974).

<sup>30</sup>Act on the Regulation of Importation of Pre-Columbian Monumental or Architectural Sculpture or Murals, Oct. 27, 1972, Pub. L. No. 92-587, Titl. II, 86 Stat. 1297 (codified at 19 U.S.C. §§ 2091-95 [Supp. II, 1972]).

<sup>31</sup>*Id.*, § 2092(a).

<sup>32</sup>*Id.*, § 2091.

<sup>33</sup>*Id.*, §2093(a) and (b)(1), (2).

<sup>34</sup>Glueck, *supra* note 14.

<sup>35</sup>*Id.*

<sup>36</sup>*Id.*

<sup>37</sup>*Id.*

<sup>38</sup>Treaty of Co-Operation Between the United States of America and the United Mexican States Providing for the Recovery and Return of Stolen Archaeological, Historical, and Cultural Properties, July 17, 1970, [1970] U.St. 494, T.I.A.S. No. 7088, 9, Int'l Legal Mat. 1028 (1970) (hereinafter cited as U.S.-Mexico Treaty). On the background of the Treaty, see S.Exec.Rep.No. 1, 92d Cong. 1st Sess. 1 (1971).

<sup>39</sup>*Id.*, Art. I(1), II(1).

<sup>40</sup>*Id.*, Art. I(1), III, IV, V.

<sup>41</sup>*Id.*, Art. 1(2).

<sup>42</sup>10 Int'l Legal Mat. 289 (1971) (hereinafter UNESCO Convention, Paris, Nov. 14, 1970.) For a detailed discussion and analysis of the Convention and its background, see Gordon, *The UNESCO Convention on the Illicit Movement of Art Treasures*, 12 Harv. Int'l L.J. 537 (1971); Abramson and Huttler, *The Legal Response to the Illicit Movement of Cultural Property*, 5 L. and Pol. in Int'l Bus. 932 (1973).

<sup>43</sup>UNESCO Convention, Arts. 1-15.

<sup>44</sup>*Id.*, Art. 6.

<sup>45</sup>*Id.*, Art. 9.

<sup>46</sup>*Id.*, Art. 7(b).

<sup>47</sup>*Id.*, Art. 7(a). For a discussion of this provision see Nafziger, *Article 7(a) of the UNESCO Convention . . .*, in L. and M. Du Boff, *Law and the Visual Arts* 267 (1974).

<sup>48</sup>The Maya Rescue Fund, which is devoted primarily to the deciphering of the Mayan language, has been one of several concerned also about improvements in the physical protection of archaeological sites. See Nafziger, *Regulation By the International Council of Museums: An Example of the Role of Non-Governmental Organizations in the Transnational Legal Process*, 2 Denver J. of Int'l L. and Pol. 231, 252, (1972).

<sup>49</sup>*Id.*, at 239.

<sup>50</sup>*Id.*

<sup>51</sup>*Id.*, at 248.

<sup>52</sup>Coggins, *supra* note 12, at 14.

<sup>53</sup>*Id.*, at 16.

<sup>54</sup>ICOM, Ethics of Acquisition 3 (un-dated).

<sup>55</sup>Report of the United States Delegation to the Special Committee of Governmental Experts to Examine the Draft Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, April 13-24, 1970, at 7.

<sup>56</sup>The International Foundation for Art Research, Inc. has undertaken to examine the possibility of an International Archive on Stolen and Forged Art. See *An International Archive for Records of Stolen and Forged Art*, A Report of Preliminary Meetings held in New York, N.Y., and Washington D.C. in May and June 1974 (1974).

<sup>57</sup>See Nafziger, *supra* note 48.

<sup>58</sup>Newsletter of the United States National Committee/International Council of Museums, Spring, 1973, at 5, col. 1.

<sup>59</sup>Bernal, *supra* note 11.

<sup>60</sup>Evans, *Archaeology and Diplomacy in Latin America*, For. Serv. J. 35 (June 1968); Final Draft Summary of Discussion on "Looting the Past: An International Scandal," Annual Meeting, American Association for the Advancement of Science, at 11, December 29, 1971 (hereinafter cited as AAAS Draft Summary).

<sup>61</sup>*New Legal Tools*, *supra* note 22, at 338.

<sup>62</sup>AAAS Draft Summary, at 9; N.Y. Times, Mar. 27, 1973, at 28, col. 1.

<sup>63</sup>*Programa Arqueológico Centroamericano*, 8 Carta Informativa 1, Banco Centroamericano de Integración Económica 1, No. 66 (October 31, 1973).

<sup>64</sup>G.A.Res. 3187 (XXVIII), 28 U.N.GAOR 110 (1973), A/RES/ 3187 (XXVIII) (1974). For a commentary on this resolution, see Teltsch, U.N. Assembly Session Produces 150 Resolutions and a Treaty to Protect Diplomats, N.Y. Times, Dec. 23, 1973, at 4, col. 6